

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

BRYANT RICHARD

CIVIL ACTION NO. 08-1544

VERSUS

JUDGE ROBERT G. JAMES

ALLEN CUPP

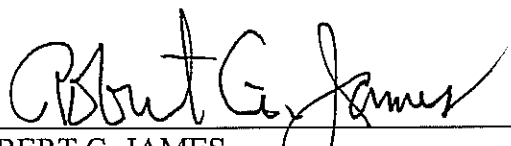
MAG. JUDGE KAREN L. HAYES

RULING

Pending before the Court is Plaintiff Bryant Richard's ("Richard") civil rights complaint. [Doc. Nos. 1 & 6]. On March 4, 2009, Magistrate Judge Karen L. Hayes issued a Report and Recommendation [Doc. No. 7], recommending that Richard's claims be dismissed with prejudice as frivolous.

The Court ADOPTS the Report and Recommendation. The Court issues this Ruling to address a claim not reached by Magistrate Judge Hayes. Richard alleged in his original complaint [Doc. No. 1] that "[t]hey don't have a non-smoking dorm[,] forcing inmates with medical conditions to live in [a] smoking dorm and inhale 2nd hand smoke." However, Richard failed to amend his complaint to include additional allegations regarding this claim, as directed by Magistrate Judge Hayes. See [Doc. No. 5]; cf. *Helling v. McKinney*, 509 U.S. 25, 28 (1993) (setting forth a two-prong test to determine whether exposure to second-hand smoke entitles an inmate to injunctive relief because it violates his Eighth Amendment right to be free from cruel and unusual punishment). The Court finds that Richard has failed to state a claim with respect to this allegation, and, therefore, this claim is DISMISSED WITH PREJUDICE as well.

MONROE, LOUISIANA, this 25 day of March, 2009.



ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE